The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED IN 1857.)

LONDON, DECEMBER 24, 1921.

ANNUAL SUBSCRIPTION, PAYABLE IN ADVANCE.

£2 12s.; by Post, £2 14s.; Foreign, £2 16s.

HALF-YEARLY AND QUARTERLY SUBSCRIPTIONS IN PROPORTION.

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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The Address of the President of the Liverpool Law Society.

WE PRINTED last week the address delivered by Mr. J. L. WILLIAMS, the President, at the annual meeting of the Liverpool Law Society on 30th November, but had not the opportunity then of calling attention to it. Like other addresses on similar occasions it contains instructive comments on matters of current legal interest. The subjects on which Mr. WILLIAMS touched were legal education, solicitors' remuneration, poor man's lawyers, and federation of law clerks, and on each his remarks will well repay perusal. Legal education is always a question of settling the respective claims of the abstract and the concrete. The student (if he exists) who has only the general principles of jurisprudence in his head, or Constitutional Law or International Law, will not get far with a draft conveyance or with a procedure summons; and the student who has confined himself to the details of office routine will miss the wider outlook in the domain of law which makes the cultured lawyer. But whether his tendency is to the practical or the theoretical, Mr. WILLIAMS gives him good advice in recommending that the foundation of learning outside the law—classics, or mathematics or other subjects—should come first, and legal knowledge should be the superstructure. As to solicitors' remuneration, the Liverpool Society are waiting to see how far their advocacy of reform is to be accepted by Mr. Justice RUSSELL'S Committee. As to Poor Man's Lawyers, Mr. WILLIAMS gave interesting information concerning the progress which this movement has made, and he claimed that the Liverpool Society was the first society which definitely associated itself with the work of a Poor Man's Lawyer Department. He does not say whether the greater part of the work is matrimonial, as elsewhere. Probably it is, and the provincial work of this nature is still suffering from the failure to put in force the facilities for provincial divorce which were created by the Administration of Justice Act, 1920—a failure which *Truth* recently described as due to "Judicial Passive Resistance." And in connection with the Federation of Law Clerks, Mr. WILLIAMS gave a very useful outline of negotiations the end of which is not yet. We are glad to have had the opportunity of placing this very useful address on record.

The Discipline Committee.

THE SOLICITORS ACT, 1919, under which the jurisdiction over the Roll of Solicitors was transferred to the Discipline Committee, came into operation on 1st July, 1920, and it is satisfactory to note that, according to a report in *The Times* of the 9th inst., there was no public meeting of the Committee, and consequently, we understand, no order affecting the Roll made until the 8th inst. On that day the Committee sat for the purpose of pronouncing their findings and orders in three cases. Each was a case in which a solicitor had been convicted of fraudulent dealing with cheques or money, and they were ordered to be struck off the Roll. Originally, the jurisdiction to suspend a solicitor or strike his name off the Roll lay entirely with the Court, and was usually exercised on the report of a Master. Under the Solicitors Act, 1888, the function of inquiring into charges and reporting upon them was vested in the Committee appointed by the Master of the Rolls under s. 12—the Discipline Committee—but the actual jurisdiction remained with the Court. The first Bill for transferring the jurisdiction to the Committee and making solicitors master in their own house, was, we believe, introduced by Lord LOREBURN in 1913, but the measure did not become law till 1919. Sir WALTER TROWER, the Chairman of the Committee, in a statement which he made at the recent public sitting, said that the Committee still followed the procedure adopted before the Act; that is, the inquiry into the charge is held in private, but, following the practice of the judges, the findings and orders are pronounced in open Court, the name of the solicitor complained of being mentioned, when an order for striking his name off the Roll, or suspending him from practice, is pronounced, but not otherwise. It has been arranged that notice of sittings for this purpose will be given in the daily Cause List. An appeal lies to the Court at the instance either of the complainant or the solicitor.

Unauthorised Payment of Rent.

AN INTERESTING decision as to payment of rent has been given by Judge PARRY at the Lambeth County Court, in *Camberwell Borough Council* v. *Phillip Palmer* (*Times*, 21st inst.). The Borough Council sued one of its tenants for rent. The plea was that the rent had already been paid to a person calling and purporting to be the authorised collector. The genuine collector, going off for a holiday, had informed the tenants that on the Tuesday following, a Mr. SIMMONS would call for the rent, carrying the brown bag and black book he himself used. On Monday, a man, representing himself as Mr. SIMMONS and carrying articles of the kind specified, called on the Council's tenants, including the defendant, and collected their rents. This was not the genuine Mr. SIMMONS, but he gave a plausible excuse, and the tenants not unnaturally paid him. *Primâ facie* the tenant's payment is not authorised; he is the victim of a fraud; he must pay over again. There is no reason why the landlord should suffer by the fraud of a third party he has not instigated or rendered possible by gross negligence. But his Honour Judge PARRY held that here the statement of the Council (through its collector) had rendered the fraud possible, and that therefore they were estopped from denying the authorisation of the payment. This decision does not impress us as sound in law; it seems to turn on some erroneous application of vague doctrines of equity and estoppel. But no doubt, it was the "fair thing" to do in the circumstances, although the principle laid down is disquieting.

Gambling and Bankruptcy.

A CASE recently heard before the Recorder at the Central Criminal Court seems to have been the first tried there for the offence of gambling as a contributory cause of bankruptcy. The offence was created by the Bankruptcy Act of 1913, which came into operation on 1st April, 1914. That Act contained the proposed amendments of the law, and the Act of 1914 was, we believe, purely a consolidating Act. Under s. 26 of the Act of 1914, one of the facts on proof of which the Court is bound either to refuse or suspend a discharge, or to require the bankrupt as a condition of discharge to consent to judgment as specified, is that he "has brought on, or contributed to, his bankruptcy by rash and hazardous speculations, or by unjustifiable extravagance in living, or by gambling." But the offence is created by s. 157, which provides that a bankrupt trader is guilty of a misdemeanour if he has (*a*) within two years before the petition materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculation, in either case unconnected with his trade, or (*b*) has lost any part of his estate in the same manner between the presentation of the petition and the receiving order. No special penalty appears to be imposed by the Act, and hence under the general provisions of s. 164 the penalty is, on conviction or indictment, imprisonment with or without hard labour up to two years, or on summary conviction, up to six months. In the case referred to above the petition was presented in December, 1920; the liabilities were £4,348 and the bankrupt said that £1,100 had been lost by gambling. For the defence it was said that the bankrupt was unaware that he had committed an offence. The Recorder accepted this and bound him over, at the same time saying that the possible penalty ought to be widely known.

Flogging as a Deterrent.

IT IS UNFORTUNATE that the Lord Chief Justice in the Court of Criminal Appeal on Tuesday should have used expressions which seem to countenance the use of flogging as a punishment. This was on an appeal from a sentence of Mr. Justice AVORY'S at the recent Bristol Assizes, where, in a case of violence, that learned judge imposed a sentence of imprisonment with flogging, and then, on medical evidence that the prisoner was not fit for the flogging, remitted this part of the sentence, but increased the term of imprisonment. The prisoner, it seems, preferred the flogging to the added term, and appealed, but the court refused to oblige him by restoring the original sentence. At the time of Mr. Justice AVORY'S sentence the Lord Provost of Glasgow—Sir W. M. STEVENSON—wrote a letter of protest to *The Times* (28th November) in which he said:—

> "I had occasion many years ago to go into the question exhaustively in connexion with a resolution in favour of flogging which was brought up in our City Council by some members of Mr. Justice Avory's way of thinking. The evidence I collected was overwhelmingly to the effect that flogging had had no influence in the diminishing of garrotting and other forms of crime with violence. The resolution, I am glad to say, was defeated.

It is probable that this is true, and that flogging, while degrading to both jailer and prisoner, is in no way a deterrent. The whole history of flogging as a punishment is instructive, and we have got beyond the extreme barbarity with which it was accompanied —especially in the Army and in convict settlements; but, it seems, we are still in the infancy of sound methods of dealing with crime.

The Civil Enforcement of Trade Board Orders.

A COUNTY COURT decision of great importance was given at Southwark by His Honour Judge GRANGER in *Phillips* v. *Simmons* (*Times*, 13th inst.). Here a manufacturer in an industry protected by the Trade Board Act of 1912, had refused to pay the Trade Board rate of wages and had been convicted and fined for the offence against the statute. He had given employment to his workers on the express agreement, so his evidence alleged, that they should not receive the Board rate of wages and should be liable to dismissal if they summoned him in the police court. Of course, the latter part of such an agreement (if proved to be a part of the terms of employment) is clearly void as being opposed to public policy. But it rather looks as if the whole contract was void as tainted with illegality, being a promise to give services in return for a consideration prohibited by law. The question then arises, whether the employees can sue for their wages, and, if so, whether at the express rate or at the higher rate fixed by the Trade Board. His Honour held that the employees could recover at law the excess of the statutory rate over that actually paid. This seems clear, whatever view one

takes of the legal position. If the employee is entitled to rely on the express contract—on the ground that he is not *in pari delicto* with the employer, being a person whom the statute was intended to protect, then he can claim (1) to be paid the agreed wage, and in addition (2) to recover the excess as money detained from him by duress. If on the other hand the express contract is void, then he can sue on a *quantum meruit* for the services rendered, and in such a case there would obviously be an implied promise to pay the statutory or customary wage.

Fortunes in the Law.

THE ORDINARY practitioner, whether at the bar or in the solicitors' branch of the profession, who is accustomed to do what seems to himself good work for a somewhat meagre reward, will have noticed with interest the amount of the estate left by a well-known member of the Parliamentary Bar, the late Mr. BALFOUR BROWNE. How far such estates are due to professional fees and how far to successful investments cannot, of course, be known, but obviously the main cause is to be found in the fees, and Mr. BALFOUR BROWNE gave in his "Forty Years at the Bar," a very full account of the practice in which they were so successfully earned. Of course, it was a case of wealthy corporations and promoters wanting the same man. With brief fees, and refreshers, and "views," all on the Parliamentary scale, and a mutiplicity of cases going at the same time, with, it is to be hoped, sufficient—though not too much—attendance to each, it is possible, no doubt, to run up an income the exact figures of which exist only for the pleasure of the recipient and the income tax officials, but which in common repute run to a good many thousands. It was AUSTIN, who, in the railway hustle of 1845-6, was found riding in the Park—or was he at Weymouth—and being reminded of his Parliamentary Committees said he was doing equal justice to all his clients. But stories like that are in the same category as stories of counsel who do not read their briefs. Natural quickness goes a long way, but hard work and diligent attendance to cases are the road to success, and the counsel who fails in either is soon found out. And there is always the chance, of which Mr. BALFOUR BROWNE in his book gave an example, of large fees being earned with a minimum of work. But these great earnings, let us add for general consolation, are not necessary for the attainment of the best success in either branch of the profession, and the moralist would doubtless pray to be delivered from them.

Infringement by Grant of Heraldic Arms.

THAT THE LAWS of Chivalry and of Heraldry are still part of the law both of Scotland and of England is one of the results to be deduced from the decision of the House of Lords in *Mackenzie* v. *Fraser-Mackenzie* (*Times*, 13th inst.). The particular case was an appeal from the Court of Session which had dismissed an appeal from the Scots Court of the Lord Lyon King-at-Arms, but the House—in affirming that such an action was competent in law, although they dismissed it on the merits—laid down a principle which applies equally to the English Court of Heraldry. Here the defendant had received from the Scots King-at-Arms in 1908 the grant of armorial bearings which resembled those of the Chief of the Clan Mackenzie. Such a resemblance, if it cannot be "differentiated," is an infringement of the owner's monopoly and can be declared invalid by an action at law. In the particular case, however, the House of Lords held (1) on the facts, that there was differentiation, and therefore no infringement of legal right; (2) as a conclusion of law that the plaintiff, who was entitled to use the Mackenzie arms but was not Chief of the Clan Mackenzie, had no *locus standi* to claim damages for the alleged infringement; but (3) on a preliminary objection, that his action was one that could be brought at law. What is chiefly interesting in the case is the decision on the second of the above three points, namely, that only the head of a family whose armorial rights are infringed has such a right of property therein as entitles him to sue the alleged infringer. Mere legal right to use the arms is, apparently, not sufficient.

The Robes of Counsel.

WE SEE THAT there has been some discussion in the press as to whether or not the lady barristers soon to be called should wear wig and gown in court. As a matter of fact, as lawyers interested in the scholastic lore of the Universities of the Middle Ages will remember, the wig and gown is not the essential part of a barrister's costume in court. The bands are essential. In the Middle Ages, all gentlemen wore wigs on ceremonial occasions; therefore, barristers merely wore wigs because a barrister was a "gentleman of heraldic arms;" as CAMPBELL points out in his own memoirs, the requirement that a bar student should obtain a grant of arms before call was still enforced in his own student days. Again, the gown was simply the sign that a barrister was a member of an Inn of Court, or a solicitor of an Inn of Chancery; it had nothing to do with his degree of "Utter-Barrister," which gave him the right to practise. As a matter of fact, the right to appear as counsel in court was originally confined to Doctors of Law, and the bands were the insignia of the Doctorate. When "Utter-Barristers" acquired by prescript the rights of "Doctors and Counsel learned in the Law," they adopted the bands too, as a sign of their privilege. However, in the course of years, gentlemen have ceased to wear wigs, although members of a college still usually wear gowns to warn the proctors of their status; but the Bar has retained the ancient custom when others have dismissed it. Readers of Sir WALTER SCOTT will remember how, in "The Antiquary," the country barber explains the sad rise of democracy and revolution by the fact that "only two gentlemen in the parish now wear wigs." The Laird and the Antiquary were the two to whom he referred. *Sic transit gloria mundi!*

Declaratory Orders and Options of Renewal.

THE judgment of YOUNGER, L.J., sitting for ASTBURY, J., last July in the case of *Gray* v. *Spyer*, reported in this month's *Law Reports* (1921, 2 Ch. 549)—apart from its style which makes it interesting for perusal—gives some useful hints as to the judicial view of declaratory orders and deals with the question of perpetual options for renewal in leases. To take the latter point first, it has long been settled that, to make out a right to perpetual renewal, the intention of the parties must be clearly expressed. In *Baynham* v. *Guy's Hospital* (1796, 3 Ves. 295), to which it is usual to refer for this proposition, PEPPER ARDEN (Lord ALVANLEY), M.R., after referring to the different practice—a "local equity"—in Ireland, gave it as the result of the earlier authorities that "the Courts in England, at least, lean against construing a covenant to be for a perpetual renewal, unless it is perfectly clear that the covenant does mean it." This was adopted by GRANT, M.R. in *Moore* v. *Foley* (1801, 6 Ves. 232) and by Lord ELDON, L.C. in *Iggalden* v. *May* (1804, 9 Ves. 325) who said that the construction must be the same in equity as at law, and that where a lease was made without more than general words for renewal, it would not impose an obligation to insert a covenant for renewal in the renewed lease. The matter was considered by PAGE-WOOD, V.C. (Lord HATHERLEY) in *Hare* v. *Burge* (1857, 4 K. & J., 45), where, repeating Lord ELDON's remark, he observed that the Court had always refused to regard mere general terms—such as a covenant to grant a renewed lease "under the like rents, covenants and conditions," as were contained in the original lease, or "with all the covenants and conditions contained in" the original lease—as amounting to a covenant for perpetual renewal, since this would be a surprise on the lessor; and he added that the proper conveyancing method of indicating an intention of perpetual renewal was to add to the general words, the words "including this covenant," an addition which obviously leaves no doubt as to what is intended. Since then there have been two cases on the subject—one, *Swinburne* v. *Milburn*, in the House of Lords (9 App. Cas. 844),

and the other, *Wynn* v. *Conway Corporation* (1914, 2 Ch. 705) in the Court of Appeal. In the former the decision was against perpetual renewal; in the latter it was in favour of it, the lease containing a covenant for renewal of a 21 years lease at the end of the first eleven years, and likewise "so often as every eleven years of the said term shall expire."

In the present case of *Gray* v. *Spyer* (*supra*), the tenancy seems to have been a tenancy from year to year, but it was alleged that on a very special form of agreement the tenant had a perpetual option of renewal. Perpetual in the sense of the above cases—that is, during the fee simple estate of the lessor—it could not be, since the lessor was a leaseholder with an unexpired term of 50 years. But this apparently makes no difference in principle, and YOUNGER, L.J. considered that the rule laid down in the above cases would apply. There were in the agreement no words indicating with the necessary clearness the intention of repeated renewal, and hence in any event the claim failed. The learned judge, however, appears to have decided against it also on the ground that the tenancy was a yearly tenancy, importing the right of termination by notice, and that a right of perpetual renewal was inconsistent with such a tenancy and must be rejected—a conclusion which certainly seems to be founded on good sense. A yearly tenancy which is continued beyond the first year is a tenancy the legal incidents of which are well settled. It is not a tenancy determining and recommencing with every year; but the tenant has a term for one year certain, with a growing interest during every year thereafter, springing out of the original contract and parcel of it: *Oxley* v. *James* (13 M. & W. 209, 214). The customary half-year's notice may indeed be varied in any way the parties see fit; see SALTER, J., in *Allison* v. *Scargall* (1920, 3 K.B. at p. 449), a passage with which YOUNGER, L.J. agreed, adding, however, that the lessor, if not himself put on special terms as to notice, retained the usual right to give a six months notice. To deprive him altogether of the right to determine the tenancy would be repugnant to the nature of a yearly tenancy.

With regard to declaratory orders, we do not propose to do more at present than call attention to the learned judge's intimation that an action cannot properly be brought for a declaratory order, unless there is some legal or equitable right ready to be enforced. That at least appears to be the result of his observations on this point. The action was by the landlord claiming a declaration (1) that on the true construction of the agreement the defendant, the tenant, was not entitled to perpetual renewal; (2) in the alternative, rectification so as to give a right to one renewal only; and (3) a declaration that the tenancy had been determined by notice to quit. The defendant counterclaimed for a declaration of a right to perpetual renewal. But on neither side, YOUNGER, L.J. pointed out, was there any claim for effective relief. The plaintiff did not claim possession. The defendant's claim was in equity only, since the agreement on his construction was void at law for want of sealing, and he did not claim specific performance. "The case," said YOUNGER, L.J., "very conclusively illustrates the ineffectiveness, at a pinch, of those abstract declarations which, in the opinion of many judges, are too much indulged in under modern procedure." And subsequently, "In truth these abstract declarations, whatever else they may be, are neither law nor equity. Perhaps when that is more clearly recognised they will, to the general advantage, be less promiscuously employed." Of course, it is not essential for consequential relief to be claimed. This is distinctly stated in R.S.C. Ord. 25, r. 5, which authorises declaratory actions, and it is recognised in Ord. 54A, which authorises a construction summons. At the same time, declaratory orders will not be made entirely "in the air," and the suitor who asks for one must, it seems, have a specific claim, which if the order is in his favour, he will be able to assert: see *Re Clay* (1919, 1 Ch. 66.)

At Lincoln on Wednesday, Alfred Dovey was summoned under the Lord's Day Observance Act for selling sweets on Sunday. The defendant said that in other large towns the Act was a dead letter, but not in "silly old Lincoln." A fine of 5s. was imposed.

The Common Law as a Rational Legal System.

THE death of Lord Halsbury called to the mind of almost every press writer of an obituary notice a certain very famous passage in one of his judgments. The unanimity with which the passage in question has been quoted is not without its significance for the scholarly student of our jurisprudence. For it shows that Lord Halsbury emphasized in a way which must be regarded as remarkable one of two conflicting views as to the nature of our own, and indeed of any legal system. According to one view Law is a creature of accident and of circumstances: it arises in the practical expedients a people adopt to meet the difficulties in their way; it crystallises into customs and into statutes, two different but fundamentally similar methods of laying down a pragmatic rule to meet a particular set of facts. According to the other view, Law is at bottom a body of principles, which have been unconsciously applied by the popular instinct in creating its customary laws, or by the legislature in modifying these. In each case it is for jurists to infer a connected system of principles from these scattered customs or statutes, and for judges to interpret new facts in the light of the principles thus established.

These two views, which may be called the Empiricist and the Rationalist views of Law respectively, are as old as the commencement of thinking about the rational ground of law. Hobbes and Austin took one view: they held that actual rules of law are simply the commands of a Sovereign who is bound only by the dictates of his conscience for the time being. The same view, rather differently expressed, has been put forward by Sir Henry Maine and the historical jurists, who regard law as a somewhat irregular and accidental growth which happened to follow fairly uniform lines, because changing economic environments force much the same solution upon mankind in the same sort of external circumstances in every sphere and at all epochs. On the other hand, a band of idealists, represented by Sir Frederick Pollock and Professor Salmond in the English-speaking world, and by such great continental jurists as Savigny or philosophers as Hegel, have put forward the opposing view. To them the Common Law is like equity, a reasoned and connected system of principles, not consciously apprehended by those who declared them, but implicitly applied. It was implicitly applied because, in judging the cases before them, the judge of law—be he a jury declaring a general custom, or a parliament passing a statute, or a judge deciding a case in accordance with precedents and authorities—all unconsciously starts with a rational standard of justice and injustice in his mind; he rejects the view of the law which fails to satisfy this standard, and he accepts that which can be brought into conformity with it.

According to the latter view the essential practical test in every case of legal argument is the "Consistency" of the view advocated with previous rules established and accepted. If the new view fits in with our general system of justice and equity, then it is right, for it makes the whole system of jurisprudence a rational and consistent code. If it fails to so fit, then it is wrong, because the system thereby becomes an inconsistent thing. Just as tribunals during the war judged the sincerity of a conscientious objector by the harmony between his invariable conduct and doctrines in the past with the creed he now put forward, so the legal tribunal accepts or rejects the view an advocate puts forward by its consistency with principles already established. It is therefore necessary to examine the whole line of reported decisions relating to the point and to find in them some interpretation which is consistent with all of them. If such cannot be found, because of fundamental contradictions between one case and another, it is necessary to overrule the case which seems least in harmony with the general principles of the law as ascertained in other branches thereof. The advocate who relies on a "case" is really relying on the uniformity of legal principles, for he is asserting that the case which he quotes in his support must have contained some general principle which is in harmony with the Law as a whole, and which therefore is a "Standard" by which his clients' rights can be measured.

Now, the famous passage from Lord Halsbury's judgment in *Quinn* v. *Leathem* (1901, A.C. 495, at p. 506), which is the subject of so much dispute, takes quite another view of the Common Law. Let us quote Lord Halsbury's actual words:—

> "A case is only an authority for what it actually decides. I entirely deny that it can be quoted for a proposition that may seem to follow logically from it. Such a mode of reasoning assumes that the law is necessarily a logical code, whereas every lawyer must acknowledge that the law is not always logical at all."

No one has ever accepted this as really sound. If it were, surely then it would mean that no reported decision is an

authority unless the facts in that case and in the new case before the court are identical. The effect of this, in practice, would be to make every suit a case of first impression, which might be decided anyhow, and would reduce our jurisprudence to a chaos. Of course, Lord Halsbury did not really mean this. But his unfortunate dictum has proved a stick with which to beat a dog; for, whenever a judge perversely refuses to apply the principle of a decision of which he disapproves, then he at once solemnly justifies his action by quoting this too famous dictum. And whenever a counsel finds it necessary to put up some show of argument when the authorities are dead against him, he resorts to the same expedient.

But while Lord Halsbury's dictum, as it stands, offends against all authoritative opinion, it nevertheless does express, with some exaggeration, a conservative attitude towards the interpretation of the Common Law which, in practice, has been very effective for good or for evil. It has induced many judges to treat antiquated decisions as sacrosanct, even when they are plainly inconsistent with a new and continuous stream of decisions on some closely allied point. The best recent example of this is *Hewson* v. *Shelley* (1914, 2 Ch. 13), where our courts found great difficulty in over-ruling the old cases of *Graysbrook* v. *Fox* (1565, 1 Plowd. 275); and *Abram* v. *Cunningham* (1677, 2 Lev. 182), which the modern decision of *Ellis* v. *Ellis* (1905, 1 Ch. 613) had in fact followed. The question turned on whether or not the purchaser of an estate from a properly appointed administratrix in the case of the supposed intestacy of the deceased is to lose his protection on the subsequent discovery of a will; common sense and equity refuses to let the title which the court has helped to create be defeated by the executor's prior title, but the old decisions quoted took the opposite view, and it needed courage to over-rule them. A case like this is a real test whether or not the judges who hear it really accept Lord Halsbury's dictum or refuse to do so. Another familiar illustration of the same difficulty is afforded by *Bowman* v. *Secular Society, Ltd.* (1917, A.C. 406), where the House of Lords finally, but with an evident feeling of reluctance, over-ruled *Briggs* v. *Hartley* (1850, 19 L.J. Ch. 416); and held that a gift to a secularist society is not necessarily invalid as opposed to public policy.

The question is not merely one of academic interest, for upon it rests the ultimate moral defensibility of our jurisprudence. If the Laws of England are not a rational system of principles, but merely express the commands laid down at each stage of their growth by the authority possessing force for the time being, whether King or Parliament, then their moral validity disappears, and the citizen who desires to oppose them by direct action can always claim that he is opposing the dictates of reason and conscience to those of *force majeure*. But if our law is a rational system of principles, however imperfect, which the judges and the legislature have honestly attempted to discover and apply with the aid of reason and the principles of natural justice and equity, then the sanction of the law is its inherent rationality, which must be accepted by the conscience of every rational being as morally binding upon him except in a very extreme case of error and violation of these principles. The *Ratio Decidendi* of legal principles is certainly far from unimportant, for upon it depends their moral authority in the eyes of reasonable citizens.

Res Judicatæ.

Clogging the Equity of Redemption.

(*Re Cuban Land and Development Company* (1912) *Limited*, 1921, 2 *Ch.* 147).

It was no less an authority than Lord Bramwell who in *Salt* v. *Marquis of Northampton* (1892, A.C. 1) professed himself unable to understand the doctrine of the "clog on the equity of redemption," or to use his actual words, "that beats me." But the re-affirmation of the doctrine in that case was quickly followed by a series of decisions as to what collateral advantages bargained for by the mortgagee were to be regarded as constituting a clog which equity would not allow. It was held in *Noakes* v. *Rice* (1902, A.C. 24) that where the collateral advantage directly affected the mortgaged property—such as a "tie" on a mortgaged public-house—it must cease on redemption; and so, too, as to a contract to employ a broker in a mortgage of shares; *Bradley* v. *Carritt* (1903, A.C. 253). But in effect *Bradley* v. *Carritt* seems to have been overruled by *Kreglinger* v. *New Patagonia, &c. Co.* (1914, A.C. 25) where, upon a mortgage by way of floating charge on the undertaking of a meat preserving company, an option over the sheepskins of the company for five years in favour of the lenders was held to survive the repayment of the loan. It may be argued that the decision was confined to floating securities; but this does not seem to furnish any ground of distinction in point of principle, and the decision was probably in the nature of a relaxation of the strict rule in favour of genuine commercial contracts. At any rate, since that case, an agreement for giving debenture-holders a share in surplus assets in the winding up of a company will not be treated as a clog, even though the debentures may become payable before the winding up. In *Re Cuban Land and Development Company* (1912) *Ltd.* (*supra*), there were two series of debentures each carrying interest payable out of profits, and the right to a certain proportion of surplus assets in a winding up. The first series were repayable on notice; the second were irredeemable. Mr. Justice P. O. Lawrence, applying the principle of the *New Patagonia Meat Co.'s Case* (*supra*), held that in each case there was a bargain fairly made which was not in the nature of a penalty clogging the equity of redemption, or inconsistent with or repugnant to the contractual and equitable rights of the company to redeem, and the debenture-holders, accordingly, were entitled to share in surplus assets in a voluntary winding up.

Identity of the Subject-Matter of a Contract.

(*Re Arbitration: R. & W. Paul, Ltd. and W. H. Pim, Junr., & Co. Ltd.*, *ante*, 93).

It is a familiar rule of the law of sale that there is *nudum pactum* when the parties are not *ad idem* as to the identity of the subject-matter sold. But, like other familiar rules, the application in novel circumstances not infrequently creates a difficulty. This is admirably illustrated by *Re Arbitration: Paul and Pim* (*supra*). Here vendors sold to purchasers "the cargo of . . . maize . . . shipped in good condition . . . per 'Rijn,' consisting of about 2813 French tons or what steamer . . . carries as per bill of lading." At the date of the contract, to the knowledge of both parties, a cargo of maize was on board the vessel, which approximately was of the dimensions stated in the contract note, and also practically amounted to the total cargo the vessel could carry. But, after contract and before sailing, the ship took on board a small additional cargo of tobacco. In due course the vendors tendered the purchasers bills of lading for the maize with insurance policy and the invoice of the goods sold, for which the purchasers paid. On the arrival of the goods at the port of destination the buyers, however, claimed a right to reject the goods on the ground that they had contracted to purchase the whole cargo of the "Rijn," whereas the cargo of maize sold was not a complete cargo; there was tobacco in addition. The case was somewhat complicated by the fact that the tobacco was carried by the master without the shippers' authority, and that he did not declare it to the customs on arrival, but in the event this fact proved irrelevant to the decision of the arbitrator, and of Mr. Justice Bailhache who upheld that decision on a *case stated*. The simple question resolved itself into this: was the contract of sale one for the sale of specific goods, namely, the cargo of maize, or of the whole cargo of the ship? In the latter event the buyers would have been entitled to reject on the ground that the cargo sold was not, as they believed and intended, a complete ship's cargo. Such was the view taken by the Exchequer Division in *Borrowman* v. *Drayton* (2 Ex. D. 15), a very similar case except that, at the date of the sale, no cargo had as yet been loaded. This difference, however, makes an essential distinction in law and in the present case there was a cargo loaded on board at the date of the sale; its quantity and description was known to the buyers when they agreed as to price; therefore the mere accident that it was not a complete cargo was simply a "mis-description" and not an "essential error" as to the identity of the subject-matter of the contract. For this reason, the court held that the sale was a bargain in the specific cargo on board and therefore a valid contract.

Repudiation of Contract by Apprentice.

(*Waterman* v. *Fryer*, *ante*, 108).

An infant, as is well-known, can enter into a contract of apprenticeship, which is binding upon him, provided it is in the main a contract for his benefit. Once the contract is entered into, he is in a peculiar position; in one respect his status is a privileged one, but in another respect it is inferior to that of a contract by an adult. For the infant cannot be held to have broken his contract or repudiated it, by express or implied refusal to carry it out, in such a way as to justify rescission, whereas with an adult there are well-recognised breaches which go to the root of the contract and give the other contracting party a right to elect whether he will affirm or cancel the contract. On the other hand, an infant is liable to corporal chastisement for breach of duty, and can be compelled to perform his contract specifically on pain of imprisonment. The right of the master to rescind, in fact, is not governed by the effect of the infant's misconduct on the master's interests, as in the case of an adult, but solely on the question whether or not it is for the benefit of the infant to have the contract rescinded: *Learoyd* v. *Brook* (1891, 1 Q.B. 431);

Westwick v. *Theodor* (L.R. 10 Q.B. 426); *Mersey Steel Co.* v. *Naylor Robinson & Co.* (9 App. Cas. 434). Where the conduct of the infant renders teaching impossible, however, the court will usually allow the master to rescind: *Raymond* v. *Minton* (L.R. 1 Ex. 244). The question arose in rather a novel form in *Waterman* v. *Fryer* (*supra*), on appeal from a county court judge, who allowed the master to rescind. The facts were these: The infant persistently conducted himself in an insubordinate manner because he wanted his contract terminated; at last the master rescinded and sent him home. The infant, by his father as next friend, then sued the master in damages for wrongful dismissal; but the county court judge held him disentitled, on the ground that his conduct amounted to repudiation. He omitted to consider whether or not the rescission was for the benefit of the infant, and therefore the Divisional Court sent the case back for a new trial, to ascertain this point, and enter judgment for or against the master according as the repudiation was for the infant's benefit or otherwise.

Reviews.

Legal Diaries.

THE SOLICITORS' DIARY, ALMANAC AND LEGAL DIRECTORY (with which is incorporated the Legal Diary), 1922. Edited by ROBERT CARTER, Solicitor. Seventy-eighth year of Publication. Waterlow & Son, Ltd.

THE LAWYER'S COMPANION AND DIARY, and LONDON & PROVINCIAL LAW DIRECTORY FOR 1922. Edited by E. LAYMAN, B.A., Barrister-at-Law. Seventy-sixth Annual Issue. Stevens & Sons, Ltd.; Shaw & Sons, Ltd. 7s. 6d. net.

SWEET & MAXWELL'S DIARY FOR LAWYERS FOR 1922. Edited by FRANCIS A. STRINGER of the Central Office, Royal Courts of Justice, and PHILIP CLARK of the Central Office. Sweet & Maxwell, Ltd.

Each of these diaries is too well-known to require more than a word of recognition on the appearance of the 1922 edition. In the fulness and variety of the legal information which they give, it is difficult to make any choice. Stamps, death duties, titles of statutes, lists of judges, courts and court officials, registration of title and deeds, solicitors' remuneration, costs, and many other matters, are all arranged ready for reference at a glance, and if we selected any of these for special notice in one volume, we should probably find it was equally a feature in another. Practitioners of standing will no doubt have their own preference. Those who are young enough to require to make a choice, we prefer to leave to choose for themselves. The two mentioned first include law lists, the third does not; but its list of fees in the various courts, in bankruptcy, and so on, is very complete; so also is its Time-Table of proceedings in the Supreme Court and elsewhere. In the copy before us it has a full page of diary for each day; the others have half a page only, but we believe they are issued in different forms as regards diary space. The diaries are heralds of what we hope will be a prosperous year.

Correspondence.

The Lord Chancellor: New Style.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—Last Saturday I read with some surprise and some amazement a controversy between the Lord High Chancellor and a guest at the O.P. Club, regarding some chaff used in proposing the health of the Chancellor.

The activities of the O.P. Club would seem to extend to Sunday dinners, and I presume that we have heard the last of a keeper of the King's conscience being bound by ecclesiastical usage as to Sunday entertainments.

I cannot imagine Lord Selborne gallivanting at a theatrical dinner or descending to recriminatory correspondence on a chaffing speech, no matter in what bad taste it was made, and I don't like it.

I daresay most of the members of the profession over forty years' standing think as I do.

80 Coleman Street, E. T. HARGRAVES.
London, E.C.2.
21st December.

The Irish Peace Agreement.

[*To the Editor of the Solicitors' Journal and Weekly Reporter.*]

Sir,—It is not uninteresting to note that of the twelve signatories to the Agreement, four were eminent solicitors—the Prime Minister, Sir Laming Worthington-Evans, Bart., Sir Hamar Greenwood, Bart. (a Canadian Solicitor and Barrister) and Mr. Duggan, an Irish Solicitor, while Mr. Gavan Duffy, until recently, was a solicitor practising in London.

Is not this some indication again that solicitors of the right type are the best "Diplomatists" and "Negotiators" in public as well as in private life? The special experience and contacts of such men help them the better to look at both sides of a case, and they do this more easily than if their professional experiences had been those of advocacy purely, for an Advocate instinctively devotes himself exclusively to bolstering up the cause of the side he represents, shutting his mind out rather more than less from the consideration of the opposite point of view.

4 New Court, W.C.2. HARVEY CLIFTON.
20th December.

CASES OF LAST SITTINGS

House of Lords.

COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH ADMIRAL OF THE UNITED KINGDOM *v.* OWNERS OF S.S. "VOLUTE." 15th December.

SHIPPING—COLLISION—NEGLIGENCE OF BOTH SHIPS—CONTRIBUTORY NEGLIGENCE.

In an action of damage by collision between H.M.S. "Radstock" and the defendants' steamship "Volute," the President and the Court of Appeal held on the facts that the "Radstock" was alone to blame.

Held, by the House, reversing the Court of Appeal, that the "Volute," by omitting to give the appropriate signal, had contributed to the accident, and was partly to blame.

This was an appeal from an order of the Court of Appeal, affirming a judgment of the President, Sir Henry Duke, in an action arising out of a collision which took place in April, 1918, between H.M.S. "Radstock" and the defendants' steamship "Volute." Both courts below found that the "Radstock" was alone to blame for the collision. The appellants now sought to have it declared that the "Volute" was alone to blame, or, in the alternative, partly to blame. The appeal raised an important question as to the law of contributory negligence. The "Radstock" was one of two destroyers in charge of a convoy of three oil-tank vessels. The "Volute" was the leading merchant vessel, having one of her consorts on the port hand and one astern. The "Radstock" was the escort on the starboard hand and the "Undine," another destroyer, was the escort on the port hand. The "Volute" was made the leader of the convoy and had instructions when to alter her course. She was to be responsible for the alteration and was to sound the necessary short blast helm signals when altering course. She was directed to alter course, and this she proceeded to do. She ought to have signified this alteration by the blowing of a short blast of her whistle. Whether she did so was a matter in dispute. The "Radstock," whose officer and crew said they heard no whistle, did not alter course, and the result was that a position of danger arose. There was some evidence that the "Volute" stopped and reversed her engines before the collision. The two vessels came into collision at about right angles, the "Radstock" having at the time attained a speed of about 18 knots, which the appellants contended was the cause of the collision.

The LORD CHANCELLOR said there were two questions of fact in dispute, namely, whether the "Volute did or did not blow a whistle as the appropriate helm signal, and whether she did or did not stop and reverse her engines. Dealing with the latter point first, his Lordship thought it safer to conclude that the "Volute" did stop and reverse her engines in sufficient time to save her from blame in this respect. As to the other issue about the signal, their Lordships, after a careful examination of the evidence, were all, he believed, convinced that the signal was not given. The "Volute" therefore was negligent and to blame in not blowing a short helm blast. As regards the alleged negligence of the "Radstock," it seemed that if the officer in charge had not increased his speed there would have been no collision. After discussing *Dowell* v. *General Steam Navigation Co.* (5 E. & B. 195), which was an instance of acts of negligence close together, but still in sequence, his Lordship reviewed a series of authorities, since the passing of the Maritime Conventions Act, 1911, and said that on the whole he thought that the question of contributory negligence must be dealt with somewhat broadly, and on common-sense principles as a jury would probably deal with it. And while no doubt where a clear line could be drawn the subsequent negligence was the only one to look to, there were cases in which the two acts came so closely together, and the second act of negligence was so much mixed up with the state of things brought about by the first act, that the party secondly negligent, while not held free from blame, might on the other hand invoke the prior negligence as being part of the cause of collision so as to make it a case of contributory negligence. And the Maritime Conventions Act, with its nice qualifications as to the *quantum* of blame and the proportions in which contribution was to be made might be taken as to some extent declaratory of the Admiralty rule in this respect. Applying these considerations of law to the facts of this case, if the "Volute" had not neglected to give the appropriate whistle signal when she ported there would have been no collision. On the other hand, if the "Radstock," in the position of danger brought about by the action of the "Volute," had not gone full speed ahead, there would have been no collision. The case seemed to him to resemble somewhat closely that of *The Hero* (1912 A.C. 300). In that case, as in this, notwithstanding the negligent navigation of the first ship, the collision could have been avoided if proper action had been taken by the second ship. Indeed, that case was remarkable, because the proper order was actually given, but, unfortunately, countermanded. In that case the House held both vessels to blame, apparently considering the acts of navigation in the two ships as forming parts of one transaction, and the second act of negligence as closely following upon and involved with the first. In the present case, there did not seem to be a sufficient separation of time, place or circumstance between the negligent navigation of the "Radstock" and that of the "Volute" to make it right to treat the negligence of the "Radstock" as the sole cause of the collision. The "Volute," in the ordinary plain common-sense of this business, having contributed to the accident, it would be right for their Lordships to hold both vessels to blame for the

collision. Accordingly, he moved their Lordships to reverse the order appealed from, and to pronounce the "Volute" partly to blame for the collision with the usual consequential directions. He thought there should be no costs in the Courts below, but the plaintiffs should have the costs of this appeal.

Lord FINLAY, in concurring, said he had nothing to add beyond saying that he regarded the judgment to which they had just listened as a great and permanent contribution to the law on the subject of contributory negligence and to the science of jurisprudence.

Lord CAVE, Lord SHAW and Lord PHILLIMORE also concurred.—COUNSEL, *Raeburn*, K.C., and *Balloch*; *Stephens*, K.C., *and Carpmael*. SOLICITORS, *Treasury Solicitor*; *Waltons & Co.*

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

High Court—Chancery Division.

In re TOWNLEY: THE PUBLIC TRUSTEE *v.* ALLDER AND OTHERS.

Sargant, J. 10th, 11th and 24th November.

WILL—CONSTRUCTION—SPECIAL FUND FOR PAYMENT OF DEBTS TESTAMENTARY EXPENSES AND DUTIES—MARSHALLING IN FAVOUR OF LIABILITIES NOT PAYABLE OUT OF RESIDUE—FUND INSUFFICIENT.

Where a testator by his will has created two sets of funds, a special fund and a residuary fund, and there is no indication that two sets of liabilities which were to be discharged out of the special fund were to be discharged otherwise than concurrently and pari passu, *the claim of the specific legatees to marshall as against the residuary legatees on an insufficiency in the special fund, was disallowed.*

This was a summons to determine whether in the event of a certain specific fund proving insufficient to pay the funeral and testamentary expenses and debts and the duties in full, the funeral and testamentary expenses and debts ought to the extent of the deficiency to be paid out of the residue. The facts were as follows: The testator by his will made in 1919 gave certain specific bequests and devises and continued as follows: "I direct that, after payment thereout of all debts, funeral, and testamentary expenses, and all death duties attached and payable under the provisions contained in this my will, any money I may have or money lying in the bank or otherwise or represented by war stock or war bonds may be divided and one half part thereof paid to" W. J. Allder, and the other half part thereof to C. Lawrence and F. E. Lawrence as joint tenants. The testator directed the sale, conversion and investment of his residue, and after making provision for certain small annuities of a terminable nature, gave the income of the investments representing residue as to one half to W. J. Allder and as to the other half to C. Lawrence and F. E. Lawrence for their lives and the life of the survivor, with provision for the accruer of the income of each half in favour of the beneficiary or beneficiaries of the other half, and an ultimate gift over on the death of the survivor of the three beneficiaries to a hospital. The testator made a codicil to his will, which in effect interposed in the gift of residue immediately before the ultimate gift of capital life interests in favour of eight named persons and the survivors or survivor of them. It had already been decided that the duties referred to in the will included estate, legacy and succession duties on the specific pecuniary legacies and on the annuities, and on the residue, and that these duties were all payable previously out of the special fund in exoneration of the residue.

SARGANT, J., after stating the facts, said: Of the charges on the special fund the debts, funeral and testamentary expenses, and some of the death duties, will be payable out of residue if the special fund is insufficient, but some of the death duties will not be payable out of the general residue, but will, as to any deficiency, be left to be borne by the devisees and legatees themselves. It is suggested in favour of the latter class that the special fund should be applied first in payment of their liabilities in full, and as to the residue only in payment of the other liabilities, leaving the balance of them to be discharged out of the residue. This suggested marshalling is entirely distinct from the ordinary principle of marshalling in the administration of assets, but is said to be justified by the broad general principle stated in "Jarman on Wills" (6th Ed., p. 2095). That has no application to a case like this when the two sets of funds are created under the same instrument. The relative rights must depend upon the intention of the instrument. There is in this will no indication that these two sets of liabilities are to be discharged out of the special fund otherwise than concurrently and *pari passu*, and the claim of the specific legatees to marshall as against the residuary legatees seems little, if at all, more meritorious than would be a corresponding claim by the residuary legatees as against the specific legatees. There is, therefore, no case for marshalling, and the whole of the liabilities must be discharged rateably out of the special fund.—COUNSEL: *Crossman*; *C. R. R. Romer*; *Farwell*; *J. V. Nesbitt*; *Whitfield-Hayes*; *R. L. Ramsbotham*. SOLICITORS: *Warwick Williams & Marchant*; *H. Anderson*, for *A. F. Eaton*, Bournemouth; *Russell, Son & Fisher*; *Monier-Williams, Robinson & Milroy*.

[Reported by L. M. MAY, Barrister-at-Law.]

The Board of Trade announce that the referee, after hearing a complaint under the Safeguarding of Industries Act, that santonine had been improperly included in the lists of articles chargeable with duty under Part I of the Act, has given a judgment upholding the complaint, and accordingly santonine is withdrawn from the lists as from 20th December.

HALL *v.* MINTER. Sargant, J. 29th and 30th November.

SOLICITOR—COSTS—COMPROMISE OF SPECIFIC PERFORMANCE ACTION—MORTGAGE A TERM OF—SEPARATE FEE FOR NEGOTIATING LOAN—SOLICITORS' REMUNERATION ACT, 1881 (44 & 45 Vict. c. 44)—GENERAL ORDER, 1882, RULE 2.

Where an action for specific performance was compromised on terms, one of which was that a large part of the purchase money should remain upon mortgage, and another that the defendant should pay the plaintiff's taxed costs of the action on the footing of affording a complete indemnity,

Held, that where the bill of costs included items relating to the negotiations, including all the costs incurred by the vendor's solicitors in arriving at the terms of settlement, a separate fee could not be charged for negotiating the loan.

Stanford *v.* Roberts (26 Ch. D. 155) *distinguished.*

This was a summons to review a taxation of costs. The facts were as follows: On the 30th of December, 1919, the plaintiff by a written agreement agreed to sell and the defendant agreed to purchase certain freehold houses and land in Mornington Crescent, Hampstead Road, for a sum of £65,000, the purchase to be completed on the 24th day of June, 1920. The London County Council in the meanwhile issued an order prohibiting for the time being the erection of buildings on part of the land. The banks also restricted their lending and the defendant was unwilling to complete on the fixed date. The plaintiff thereupon commenced an action against him for specific performance. There were negotiations and interviews lasting over a considerable period and ultimately the action was compromised and all proceedings stayed upon the terms that the defendant should pay about half the purchase money in cash and the rest should remain secured upon a mortgage of the property. It was also agreed that the defendant should pay the plaintiff's taxed costs of the action on the footing of affording a complete indemnity. Upon the taxation the defendant objected to an item of £75 charged as a fee for negotiating the loan, contending that the negotiation for the loan had been charged in the costs of the settlement. The plaintiff referred to *Stanford* v. *Roberts* (*supra*) and the general order under the Solicitors' Remuneration Act, 1881. The taxing master disallowed the objections.

SARGANT, J., after stating the facts, said: I disallow this charge. When the bill of costs was brought in there were a number of items relating to the negotiations, including all the costs incurred by the vendor's solicitors in arriving at the ultimate terms of settlement. It is clear from the entries and the correspondence that the most important terms of the settlement were concerned with the conditions of the mortgage—amount, rate of interest, term, etc.—and the position of the vendors under the mortgage. I accept the decision in *Stanford* v. *Roberts* (*supra*) that conveyancing business is not excepted from the General Order under the Solicitors' Remuneration Act, 1881, because it may be business which takes place in an action; but it still seems quite impossible to sever the terms of negotiation for the settlement of the action, and to say that there were any separate negotiations for the mortgage which could properly be charged for.—COUNSEL: *Grant*, K.C., and *Tyrrell*; *Dighton Pollock*. SOLICITORS: *H. W. Clarkson*; *Chester, Broome & Griffithes*.

[Reported by L. M. MAY, Barrister-at-Law.]

PRACTICE NOTE. Astbury, J. 6th December.

COMPANY—MISFEASANCE SUMMONS—DIRECTIONS BY REGISTRAR.

Upon taking his seat in court on this date ASTBURY, J., said:—

In a recent case tried in this court various defects in the present practice relating to the trial of misfeasance summonses under s. 215 of the Companies (Consolidation) Act, 1908, were made apparent. The practice of allowing witnesses to give their evidence in chief by affidavits prepared or settled for them by others in cases where real disputes of fact exist, and where various charges of misfeasance or breach of trust are involved, is open to grave objection, and when numerous or complicated issues of law or fact exist the points relied upon are under the practice at present prevailing as and when occasion demands amended or raised for the first time, and from time to time, during the progress of the trial which causes confusion, recalling of witnesses, possible injustice, waste of time and increased costs. Neville, J., in *Re A. T. Carter & Co.* (unreported) stated that in future when the facts were complicated he would require points of claim and defence to be delivered, but this suggestion has not hitherto been acted upon. I have discussed this matter with P. O. Lawrence, J., and we have decided that in future the practice in these cases shall be as follows: On the return of the summons the Registrar shall give directions as to whether points of claim and defence are to be delivered or not, as to the taking of evidence wholly or in part by affidavit or orally, as to cross-examination, and generally as to the procedure on the summons. No report or affidavit shall be made or filed until the Registrar shall so direct.

[Reported by S. E. WILLIAMS, Barrister-at-Law.]

The King has by Letters Patent under the Great Seal bearing date 3rd December, 1921, appointed Lord Curzon of Kedleston, Lord Haldane, Lord Finlay, Lord Buckmaster, the Master of the Rolls, and the Lord Chief Justice of England, to be Commissioners for the care and custody of the Great Seal of the United Kingdom of Great Britain and Ireland, and during any absence of Lord Birkenhead, Lord High Chancellor of Great Britain, from the United Kingdom.

High Court—King's Bench Division.

SHUTER *v.* **HERSH.** 15th November. Divisional Court.

EMERGENCY LEGISLATION—LANDLORD AND TENANT—NOTICE TO QUIT—NOTICE OF INCREASE OF RENT—FURTHER NOTICES OF INCREASE OF RENT WITHOUT FURTHER NOTICES TO QUIT—TENANT HOLDING OVER—STATUTORY TENANCY—INCREASE OF RENT AND MORTGAGE INTEREST (RESTRICTIONS) ACT, 1920 (10 & 11 Geo. 5, c. 17), ss. 3, 15, 16 (3).

A tenant of premises within the provisions of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, was served with notice to quit, and a notice of increase of rent. Subsequent notices of increase of rent were served on him and complied with, but no further notice to quit was served on him. In May, 1920, a notice of increase of rent was served on him, and he refused to pay the increase, but continued to occupy the premises.

Held, in an action by the landlord for possession, that the tenant was a statutory tenant and that it was not necessary for the landlord to serve a fresh notice to quit with each notice of increase of rent, there being no facts indicating an agreement for a fresh tenancy; and that the fact that the landlord had accepted rent more than three months after the notice to quit was not a waiver of the notice to quit so as to create a fresh tenancy.

This was an appeal from the Whitechapel County Court. The plaintiff was the tenant of a house to which the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, applied. In 1917 he let part of the house on a weekly tenancy to the defendant, and in May, 1920, he served on the defendant notice to quit, together with a statutory notice of increase of rent. Further notices of increase of rent were served by him on the defendant, and the defendant paid the increased rent. In May, 1921, a further notice of increase of rent was served on the defendant, but the defendant refused to pay the increase demanded and remained in occupation. No further notice to quit had been served on him by the plaintiff. The plaintiff commenced proceedings in the county court to recover possession of the premises. The county court judge held that by reason of s. 16 of the Act of 1920, inasmuch as no fresh notice to quit had been served by the plaintiff on the defendant, the acceptance by the plaintiff of rent for more than three months after the expiration of the notice to quit amounted to waiver, and that the plaintiff could not succeed. The plaintiff appealed. By s. 3 of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, it is enacted: "(1) Nothing in this Act shall be taken to authorise any increase of rent except in respect of a period during which but for this Act the landlord would be entitled to obtain possession . . . ." Section 12 (8) enacts: "Any rooms in a dwelling-house subject to a separate letting wholly or partly as a dwelling shall, for the purposes of this Act, be treated as a part of a dwelling-house let as a separate dwelling." Section 15 enacts: "(1) A tenant who by virtue of the provisions of this Act retains possession of any dwelling-house to which this Act applies shall, so long as he retains possession, observe and be entitled to the benefit of all the terms and conditions of the original contract of tenancy, so far as the same are consistent with the provisions of this Act, and shall be entitled to give up possession of the dwelling-house only on giving such notice as would have been required under the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months notice." Section 16 (3) enacts: "Where the landlord of any dwelling-house to which this Act applies, has served a notice to quit on a tenant the acceptance of rent by the landlord for a period not exceeding three months from the expiration of the notice to quit shall not be deemed to prejudice any right to possession of such premises, and, if any order for possession is made, any payment of rent so accepted shall be treated as mesne profits."

BANKES, L.J. (sitting with SCRUTTON, L.J., as an additional Divisional Court), in the course of his judgment, said that the tenancy came within the Act of 1920, being of a set of rooms within s. 12 (8) of that statute. For the purposes of the present case, although the validity of the notice to quit given in 1920 might be questionable, he would assume that it was good in law so far as the parties were concerned. The Defendant continued to pay an apparently increased rent for some considerable time. Further notices of increases were served on him and paid, but finally a notice of increase was served on him which he refused to pay. The plaintiff instituted proceedings for recovery of possession of the rooms. The defendant alleged that the rent was not lawfully due because it could not be justified under the Act. The county court judge held as a matter of law, that the notice to quit given in May, 1920, was not sufficient to bring the case within s. 3 (1) of the Act, on the ground that by reason of s. 16 (3) fresh tenancies had been created after the expiration of the original notice to quit, and a fresh notice to quit was therefore necessary. He (his Lordship) could not draw the inference that the mere acceptance of rent since May, 1920, created a fresh tenancy, and he accepted the view of Shearman, J., in *Davis* v. *Bristow* (1920, 3 K.B. 428, at p. 440), where he said: "As long as s. 1, s-s. (2), of the Rent Restriction Act, 1915, and s. 1 of the Act of 1919 are in force, and a landlord is prevented from getting recovery of possession of premises after the expiration of a notice to quit, I think it is correct to say the former tenant by holding over no longer becomes a trespasser, but is in lawful statutory occupation of the premises unless there is proved in fact any other lawful agreement subject to the provisions of the Act which the landlord and tenant choose to make." Upon the facts of the present case his Lordship thought that there was no agreement to relieve the defendant, who was a statutory tenant. The defendant was in occupation of rooms to which the Act of 1920 applied, and the plaintiff was not entitled to possession except upon the grounds stated in s. 5 (1) of that Act and for that purpose he must give notice to quit. He could not see how the landlord by serving notice of increase of rent had entered into a fresh agreement with the tenant. Nor was there material for drawing the conclusion that a new tenancy had been created. He thought there was no necessity for further notice to quit to be given. As no further notice to quit could be required unless a fresh tenancy had been created, he could not draw from s. 16 (3) the inference drawn by the county court judge that because a receipt of rent by a landlord within three months of the giving of a notice to quit was not to invalidate such a notice, no valid notice would be in existence if more than three months rent had been accepted. The defendant being a statutory tenant under the Act, the appeal must be allowed, and the case must be remitted to the county court. It might conceivably be open to the defendant to allege that the successive increases of rent were not within the statute.

SCRUTTON, L.J., delivered judgment to the same effect.—COUNSEL: *Turrell; Phineas Quass.* SOLICITORS: *H. A. Phillips; S. Teff.*

[Reported by J. L. DENISON, Barrister-at-Law.]

The Statutory Committee.

8th December.

SIR WALTER TROWER (*Chairman*), SIR CHARLES E. LONGMORE, *and* MR. R. A. PINSENT.

A sitting of the Committee under the Solicitors Acts was held at the Law Society's Hall, to pronounce their findings and orders in three cases.

The CHAIRMAN:—As this is the first public meeting which the Committee have held since the passing of the Solicitors Act 1919, the Committee think it necessary to make the following statement as to procedure. Under the Solicitors Act, 1919, which came into operation on 1st January, 1920, the Statutory Committee, which is appointed by the Master of the Rolls, have now vested in them (subject to a right of appeal to the Court) the powers which were formerly exercised by the Court of making orders for striking the names of offending solicitors off the Roll, suspending them from practice, and as to payment of costs. It will be seen that it is the duty of the Committee to consider applications by or against solicitors and to make such order as the Court would have had power to make upon a report of the Committee under s. 13 of the Act of 1888. Every order must be in writing, and a file of such orders kept in each case. A statement of findings in relation to the facts is kept at the Law Society's Hall, and is open during office hours to the inspection of any person, without payment.

The Committee, in hearing applications against solicitors, follow the procedure adopted before the Act of 1919 came into force, sitting for the purpose of inquiry as they did when they had to make a report to the Court, and following the practice of the Judges, they pronounce their findings and orders in open Court, the name of the solicitor complained of being mentioned when an order for striking his name off the Roll, or siuspending him from practice, is pronounced, but not in other cases. Through the courtesy of the Crown Office, the Committee have been able to arrange for the publication in the official Cause List of notice of the dates when they are to pronounce their findings and orders.

The CHAIRMAN then pronounced the findings and orders of the Committee.

Solicitors ordered to be struck off the Rolls.

December 8th.—WILLIAM HALSTED DALE, formerly of 17 Finsbury Square, E.C.2.

December 8th.—JOHN WILLIAM PRESTON, formerly of Hinckley, Leicester.

December 8th.—GEORGE SYDNEY SCOTT, formerly of 23 Budge Row, E.C., and Dartford.

New Orders, &c.

Peace Treaties.

THE TREATIES OF PEACE (EXAMINATION OF WITNESSES) RULES, 1921.

I, Frederick Viscount Birkenhead, Lord High Chancellor of Great Britain, by virtue of the Treaty of Peace Orders 1919 to 1921, and all other powers enabling me in that behalf, do hereby make the following Rules:—

1. An application under Article 1 (xvii) (*aa*) of the Treaty of Peace Order, 1919 [S.R. & O., 1919, No. 1517], or under Article 1 (x) (*g*) of the Treaty of Peace (Austria) Order, 1920 [S.R. & O., 1920, No. 1613], or under Article 1 (ii) (*h*) of the Treaty of Peace (Bulgaria) Order, 1920 [S.R. & O., 1920, No. 1614], or Article 1 (x) (*i*) of the Treaty of Peace (Hungary) Order, 1921 [S.R. & O., 1921, No. 1285], shall be made to a Judge of the High Court to whom bankruptcy business is for the time being assigned.

2. Every such application shall be in writing, and shall state shortly the grounds upon which it is made. The application need not be verified by affidavit.

3. Where the judge is of opinion that the application should be granted, he shall cause a summons to be issued for the attendance in Court or in Chambers of the person in respect of whom the application is made (hereinafter referred to as the witness), with or without a clause requiring the production of documents, and the summons may be in the form set out in the Appendix hereto with such variations as the circumstances may require.

4. Any such summons may be served personally or by sending it, together with the reasonable expenses of his attendance, in a registered letter addressed to the person to whom it relates at his last known address in the United Kingdom, or in such other manner as the judge may direct.

5. If the witness fails to attend at the time and place named in the summons, the officer appointed for the purpose of examining into the matter (hereinafter referred to as the officer), shall report such failure in a summary way to the judge, who may thereupon take such action in the matter as he thinks fit.

6.—(1) If the witness in the course of the examination refuses to answer any question allowed by the officer to be put to him, or to produce any documents required by the summons to be produced, that officer shall report such refusal in a summary way to the judge, who may thereupon take such action in the matter as he thinks fit.

(2) The report shall be in writing, but without affidavit, and shall set forth the question put, or the documents required to be produced, and the answer (if any) given by the witness.

(3) The officer shall, before the conclusion of the examination at which default in answering or the refusal to produce is made, name the time when and the place where the default will be reported to the judge. If the judge is sitting at the time when the default in answering is made, such default may be reported immediately.

7.—(1) Where the person on whose application the examination is held requests that the evidence shall be taken down *in extenso* he shall, unless there is a shorthand writer nominated by the judge for that purpose, nominate a person to take down in shorthand the evidence of the witness; and the person so nominated shall be appointed unless the judge shall otherwise order.

(2) Where no such request is made the person on whose application the examination is held may himself take or cause to be taken a note of the evidence given, but the officer conducting the examination shall be under no obligation to take a note thereof.

8. On every application to the Court under these Rules a fee of seven shillings and sixpence shall be taken, and on every summons issued under these Rules a fee of five shillings shall be taken.

9. These Rules may be cited as the Treaties of Peace (Examination of Witnesses) Rules, 1921.

Dated the 30th day of November, 1921.

Birkenhead, C.

We, the undersigned, two of the Commissioners of His Majesty's Treasury, do hereby concur in the above-mentioned Rule 8 that the several fees specified therein shall be taken on the proceedings therein mentioned.

William Sutherland.
J. Towyn Jones.

APPENDIX.

IN THE HIGH COURT OF JUSTICE.

No. of

IN THE MATTER OF (*a*)
and
IN THE MATTER OF (*b*)
EX PARTE (*c*)

To of

You are hereby required to attend at Bankruptcy Buildings, Carey Street, London, W.C.2, Room on the day of 192 , at o'clock in the noon to give evidence in the above matter before one of the Registrars in Bankruptcy as the officer appointed by the Court for the purpose of examining into the matter, and you are required there and then to produce (*d*)

Dated the day of 19 .

Registrar.

NOTE.—Failure to comply with this summons will render you liable to be committed for contempt of Court, or on summary conviction to a fine not exceeding £100, or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

NOTICE.

COLONIAL STOCK ACT, 1900.
(63 & 64 Vic., c. 62.)
ADDITIONS TO LIST OF STOCKS UNDER SECTION 2.

Pursuant to Section 2 of the Colonial Stock Act, 1900, the Lords Commissioners of His Majesty's Treasury hereby give notice that the provisions of the Act have been complied with in respect of the undermentioned Stock registered or inscribed in the United Kingdom:—

Government of Western Australia 6 per cent. Inscribed Stock, 1930-40.

The restrictions mentioned in Section 2, Sub-section (2), of the Trustee Act, 1893, apply to the above Stock (see Colonial Stock Act, 1900, Section 2).

(*a*) "The Treaty of Peace Order, 1919" or as the case may be.
(*b*) Here describe shortly the property or other subject matter of the inquiry.
(*c*) "The Clearing Office" or "the Custodian" or "the Administrator of Austrian [*or* Bulgarian *or* Hungarian] Property" as the case may be.
(*d*) State any documents required.

UNEMPLOYMENT INSURANCE ACT, 1920.

REFERENCES TO THE HIGH COURT OF JUSTICE UNDER SECTION 10 (1).

Pursuant to paragraph 6 of the Unemployment Insurance (Determination of Questions) Regulations, 1920, the Minister of Labour hereby gives notice of his intention to refer to the High Court for decision the following questions that have arisen in applications made to him for his decision under Section 10 of the Unemployment Insurance Act, 1920, namely whether the employment of a person as a—

Cleaner of Solicitor's Office whose duties consist in cleaning and dusting the said offices and in making fires before and after office hours

Housemaid-waitress and housemaid in a seaside Boarding House which, though not closed to visitors at any time of the year, is occupied to its full capacity only at certain holiday seasons

Cleaner of a Public Elementary School (employed by the Local Education Committee of a County Council)

Caretaker employed by a Standing Joint Committee of a County Council to take charge of their Offices

is or is not employment within the meaning of the Act of 1920.

Under Rules 5 and 18 of the Rules of the Supreme Court for regulating appeals and references to the High Court under the Unemployment Insurance Act, 1920, Section 10, any person who claims to be affected by the decisions to be given in the above-mentioned cases may apply to the Judge for leave to intervene.

The case has been set down in the High Court, and will probably be heard before the Christmas Vacation or early in January. In the event of any person desiring to intervene, all the necessary information and documents can be obtained by applying to the Solicitor to the Ministry of Labour, 3, Richmond-terrace, Whitehall, S.W.1.

COMMITTEE ON POLLUTION OF RIVERS.

The Ministry of Agriculture and Fisheries has appointed a small Committee on the pollution of rivers. It consists of Mr. J. A. Hutton (representing the National Association of Fishery Boards), Mr. Reginald Beddington (representing the Salmon and Trout Association), Mr. A. N. Bromley (representing the Alliance for the Prevention of Pollution), Mr. J. H. R. Bazley (representing the National Federation of Anglers), Mr. W. Prescott and Dr. J. F. Conroy (representing the Federation of British Industries), and Lieut.-Col. Mildmay, M.P. Lord Ancaster is chairman.

The first meeting of the Committee was held on Tuesday, when the clauses affecting pollution in the Salmon and Freshwater Fisheries Bill, which was introduced last Session, were discussed. It is proposed to re-introduce the Bill with amendments in the coming Session.

CHRISTMAS VACATION, 1921-2.

NOTICE.

There will be no sitting in Court during the Christmas Vacation.

During the Christmas Vacation all applications "which may enquire to be immediately or promptly heard," are to be made to the Judge who for the time being shall act as Vacation Judge.

The Honourable Mr. Justice Branson will act as Vacation Judge from Thursday, December 22nd, 1921, to Saturday, 31st December, 1921, both days inclusive. His Lordship will sit in King's Bench Judges' Chambers on Wednesday, 28th December, 1921, at 10.30.

The Honourable Mr. Justice Swift will act as Vacation Judge from Monday 2nd January, 1922, to Tuesday, 10th January, both days inclusive. His Lordship will sit in King's Bench Judges' Chambers on Wednesday, 4th January, at 10.30.

On days other than those when the Vacation Judge sits in Chambers applications in urgent matters may be made to His Lordship personally or by post.

When applications are made by post the brief of counsel should be sent to the Judge, by post or rail prepaid, accompanied by office copies of the affidavits in support of the application, and also by a minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Chambers, Royal Courts of Justice, London, W.C.2."

On applications for injunctions, in addition to the above, a copy of the writ, and a certificate of writ issued, must also be sent.

The papers sent to the Judge will be returned to the Registrar.

The address of the Vacation Judge can be obtained on application at the Chancery Registrar's Chambers, Room 136, Royal Courts of Justice.

The Chambers of Mr. Justice Sargant and Mr. Justice Russell (G to N Division) will be open for Vacation business from 10 to 2 on:—Wednesday, 28th December; Thursday, 29th December; Friday, 30th December, 1921; Tuesday, 3rd January; Wednesday, 4th January; Thursday, 5th January; Friday, 6th January, 1922.

Chancery Registrars' Chambers,
Royal Courts of Justice.
December, 1921.

County Court Changes.

WINDERMERE COUNTY COURT OFFICES ORDER, 1922.

1. The office of the County Court of Westmoreland, held at Kendal, is hereby appointed to be the principal office of the County Court of Westmoreland, held at Windermere.

2. The Registrar of the said Courts shall keep open at Windermere an office of the said Court held at Windermere on Thursday in every week.

3. This Order shall come into operation on the 1st day of January, 1922.

By Order of the Lord Chancellor.
Dated the 20th day of December, 1921.
(Signed) CLAUD SCHUSTER,
Secretary.

On the 1st day of January, 1922, the Registrar of the County Court of Oxfordshire held at Oxford shall cease to keep open an office of the said Court at Woodstock.

By order of the Lord Chancellor.
Dated the 20th day of December, 1921.
Signed CLAUD SCHUSTER,
Permanent Secretary.

Societies.

The Law Society.

A Special General Meeting will be held in the Hall of the Society, on Friday, the 27th day of January, 1922, at 2 p.m.

Middle Temple.

On the resignation of Mr. C. E. Bedwell as Keeper of the Middle Temple Library to become House Governor and Secretary of King's College Hospital, the Masters of the Bench have followed several ancient precedents by admitting him as an honorary member of the Inn.

Between the years 1586 and 1623 there were nine officials of the Inn who for "good and faithful service" were admitted "specially gratis and discharged from all pensions and charges." The list includes one "Richard Baldwyn," who afterwards became Under-Treasurer, but there is no Librarian upon it, as the first Keeper of the Library was not appointed until 1642. Until early in the 19th century the Keepers of the Library were always members before their appointment, but in recent years it has been customary to appoint non-members of the Inn.

Mr. Bedwell is succeeded as Librarian by Mr. H. A. C. Sturgess, who has been assistant for some years.

Warwickshire Law Society.

The Annual Meeting of the above Society was held in the Masonic Hall, Coventry, on Thursday the 1st inst. Mr. C. A. Kirby (Coventry) presided, and there was a good attendance of members, not only from Coventry, but also from Rugby, Leamington and Nuneaton.

The Annual Report and Balance Sheet were presented to the meeting, and showed that owing to the extension of the Society to practically the whole of Warwickshire, sub-committees had been formed to deal with questions arising in respect of the minimum scale now in force in the various sections.

It was also reported that the question of the legal profession formulating a scheme to deal with unemployment insurance among the clerks of the profession had been discussed, and on the initiative of this Society was considered by The Law Society and the Associated Provincial Law Societies. The matter was put on the Agenda of a meeting in London of the Associated Provincial Law Societies, and delegates from this Society attended to explain their view thereon. It was intimated that enquiries had been made, and it had been ascertained that the cost of working the scheme, coupled with the loss of the Government grant would probably mean that there would be no available money for extra benefits if the scheme were put forward.

It was also reported that during the year the committee had passed a resolution that in their opinion no solicitor acting for a vendor or purchaser should suggest to the other party that he himself should act for such other party, and this resolution was circularised among the members.

The Secretary mentioned that the voluntary work required by the Supreme Court, Poor Persons Rules, had been taken up to a considerable extent by the members of the Society both as regards investigating and conducting cases.

It was further reported that the Society had been approached by local branches of the National Federation of Law Clerks with a view to the formation of a joint council and a draft of the functions and constitutions of such council was submitted and afterwards referred to the members for their consideration. It was eventually decided that the draft submitted could not be approved, as the decision of the council would be binding on the members generally, and it was felt that the work of any such council should be advisory only. The secretary to the local branches of the National Federation of Law Clerks was informed of this, and an intimation had been received that the view of the Society was accepted and a revised draft was submitted to the meeting and approved.

It was mentioned that at the beginning of the year the Society had eighty-six members, but there were now ninety-five, all the practising solicitors in Coventry, Leamington, Warwick, Rugby and Nuneaton being members.

Mr. C. H. Fuller (Rugby) was elected President for the coming year, and Mr. C. J. Band (Coventry), Vice-President. Mr. G. O. Seymour (Coventry) was re-elected Hon. Treasurer and Mr. H. I. Mander (Coventry) Hon. Secretary. A hearty vote of thanks was accorded to the retiring President, Mr. Kirby, it being mentioned that he had fulfilled that position for three years, and that during his term of office the scope of the Society had been extended so as to cover not only the City of Coventry as theretofore, but practically the whole of the county of Warwick.

The Medico-Legal Society.

The annual dinner of the Medico-Legal Society was held on the night of Wednesday, the 14th inst., at the Holborn Restaurant. Mr. Justice Atkin, president of the society, was in the chair, and among those present were The Lord Chief Justice, Sir Gordon Hewart (Attorney-General), Sir John Collie, Sir William Willcox, Sir Richard Muir, Mr. James Berry (president of the Medical Society of London), Mr. J. D. Botterell (president of the Law Society), Mr. T. R. Hughes, K.C. (Chairman of the Bar Council), the Master of the Apothecaries' Society, Mr. A. M. Forbes (president of the Coroners' Society), Mr. Travers Humphreys, Dr. H. Drinkwater, Dr. L. A. Weatherly, Sir William J. Collins, Dr. Arthur S. Morley, Dr. F. G. Crookshank, Mr. R. J. Stilwell, Dr. F. H. Humphris, Mr. Walter Schröder (hon. treasurer of the society) and Mr. Ernest Goddard and Dr. B. H. Spilsbury (hon. secretaries).

Sir William Collins, who proposed the toast of "Medicine and Law," said that a great deal had been said lately of a State medical service, and he had heard rumours of a Department of Justice, but he felt sure that his legal colleagues would agree that such a department would not come about. The voluntary system of hospital management, he felt sure, would last longer and be better than any State management.

United Law Society.

A Meeting was held in the Middle Temple Common Room on Monday, the 19th December, 1921, Mr. C. P. Blackwell in the chair. Mr. B. A. Elliman moved: "That present day attacks on the educational system of this country are unjustifiable." Mr. R. S. Cockburn opposed. Messrs. G. C. Griffith-Williams, Ivan Horniman, Neville Tebbutt, G. T. Williams, E. S. Macquoid and S. S. G. Viran having spoken, Mr. Elliman replied. The motion was then put to the house and was carried by two votes.

The Origin of Lloyd's.

At the Insurance Institute of London three weeks ago, says *The Times*, Mr. Sidney Boulton, the chairman of Lloyds, delivered an address on the part that Lloyd's had played in the history of insurance,

Out of the 400 years that insurance had existed in this country, the first 100 years, Mr. Boulton said, knew nothing of Lloyd's or of insurance companies. Policies were taken round the City by the merchants' or the shipowners' clerks, or by brokers appointed for the purpose, to the offices of the bankers, merchants and moneylenders scattered over the different parts of the City, who carried on this insurance business in addition to their ordinary avocations. This tedious method of effecting insurance lasted for a hundred years, but during the latter part of the century the necessity for speeding up the process became pressing, and, very opportunely, coffee houses came into vogue about that time. They were used as meeting places for different classes of men; some were the chosen resort of poets, politicians and actors, while others were frequented by commercial men, and these latter gradually came to be subdivided, certain of them being identified with special classes of business. Among these was Lloyd's Coffee House.

This was first heard of in 1688. It was then in Tower-street, and four years afterwards moved to Lombard-street. It was specially patronised by shipping men, and a little sheet called *Lloyd's News*, first published in 1696, which only ran for six months, showed that it was for shipping men that this coffee house specially catered. Here it was that insurance as a business distinct and separate by itself had its cradle and nursery.

Very little was known of the first proprietor of Lloyd's Coffee House. But it was certain that he died in 1712, eight years before the birth of the first insurance company. This fact was only ascertained a few weeks ago owing to the researches of Colonel St. Quintin, the Secretary of Lloyd's Patriotic Fund, who unearthed it from the registers of St. Mary Woolnoth Church. The importance of the discovery was, Mr. Boulton remarked, that all the flattering things that had been said as to the literary ability of Edward Lloyd, as the founder of *Lloyd's List*, and so on, were discounted by his having died 14 years before that paper first appeared. But if they were indebted to him for nothing but his name, that was a priceless gift. It was no exaggeration to say that the name of this humble "coffee man" was more often on the lips of men than any other name in the commercial world.

No one probably would be more astonished than Edward Lloyd himself to find that it had been claimed for him that he was the founder of the great institution that now bore his name, but his successors carefully tended the little seedling that he had sown; they made a great feature of shipping intelligence. This ultimately developed into the founding of *Lloyd's List* in 1726. It was the oldest existing newspaper in the world, excepting only the *London Gazette*, and had continued without a break down to the present time. The 50 years from 1774 to 1824 might be described as the golden age of marine insurance. Lloyd's reaped most of the enormous profits that were made during that period. The reasons for this prosperity were twofold, first, a monopoly; secondly, the impetus given to insurance by the wars. It was a fact in insurance history that war and prosperity had often synchronized, and that peace had been followed by bad times for underwriters.

Sham Rent Collector.

The Camberwell Borough Council on Tuesday, says *The Times*, brought a test action at Lambeth County Court against Phillip Palmer, one of their tenants on the Casino estate, Herne-hill, claiming £1 3s. 5d. a week's rent.

Last August the rent collector, Mr. Pinkerton, before going on holiday, informed the tenants that on the Tuesday a Mr. Simmons would collect the rents, and that they would recognise him by a brown bag with the initials C. B. C. on it and a black collecting book. On the Monday, however, a man representing himself as Mr. Simmons, carrying an identical brown bag and a black book, called on over forty tenants in Casino-avenue and collected £54 rent. When Mr. Simmons, the deputy collector, called on Tuesday he found he had been forestalled.

Judge Parry said that whoever collected the rents must have known what Mr. Pinkerton told the tenants.

The defendant said that the sham collector gave as his reason for calling on the Monday that he was very busy, as he was doing two men's work.

Judge Parry gave judgment for the defendant with costs, holding that the council was negligent. Mr. Pinkerton's statement to the tenants, he said, was an invitation to fraudulent people to collect the rents, and he was surprised that only one, and not half a dozen men, had taken advantage of it.

Legal News.

Business Changes.

Mr. C. J. PARKER, of 168/173 Temple Chambers, Temple Avenue, E.C.4, has taken into partnership as from 1st January, 1922, Mr. CUTHBERT HANNINGTON SLOAN, LL.B., who has been associated with him for several years. The style of the firm will be "C. J. Parker & Sloan," and the practice will continue to be carried on at Temple Chambers.

Messrs. LEMAN & Co. (Mr. George Curtis Leman and Mr. Ernest Lewin Chapman), of 44 Bloomsbury Square, W.C., and Messrs. HARRISON, POLLOCK & HARRISON (Mr. Godfrey Denis Harrison), of Vernon House, Bloomsbury Square, W.C., announce that they have amalgamated their respective practices as from the 1st January, 1922, and have taken into partnership Mr. SYDNEY CURTIS LEMAN, the eldest son of Mr. George Curtis Leman. The amalgamated practice will be carried on at 44 Bloomsbury Square, W.C.1, under the style of "Leman, Chapman & Harrison."

Dissolutions.

LEONARD EUSTACE HENRY DUNCAN, LEIGH HUNTER OAKSHOTT and ARTHUR EDWARD CHEVALIER, Solicitors, 43, Castle-street, in the City of Liverpool (Duncan, Oakshott & Cº.) so far as the said Leonard Eustace Henry Duncan is concerned, 15th day of November. The remaining partners will continue the business at the same address under the same style.

Gazette, December 16th.

ARTHUR WILLIAM STANTON and GEORGE ARCHIBALD MACKENZIE, Solicitors, Whitehall House, 29/30, Charing Cross, London, S.W., (Stanton and Mackenzie), 10th day of October.

Gazette, December 16th.

General.

In a prosecution at the Marylebone Police Court on Wednesday, in which a motor driver was convicted of driving at a dangerous speed, it was stated that a young woman who was crossing the road hesitated, and was knocked down. The Magistrate (Mr. Leycester) said that the drivers of cars must anticipate that sometimes people would be stupid in the way they acted when crossing a road, and they must drive at such a speed that when it happened they would be able to pull up and avoid them.

The final list was issued on Monday of petitions for leave to deposit private Bills to come before Parliament in the next session. Including those deposited before 30th November, the total number of Bills and Provisional Orders is now 83, as compared with a total of 111 last session. Many of these are of a non-contentious character, and this and other facts indicate that the session's private legislative programme will be light. There are no great schemes of borough extension as there were during the past session.

The Inland Revenue authorities have, says the *Times* under "City Notes" (15th December) claimed excess profits duty from the Charterland and General Exploration and Finance Company on the ground that 160,493 £1 shares of the Rhodesian and General Asbestos Corporation held by the company, and standing in its books at 3s. 4d. per share, should be valued at £1 per share. At the meeting of the Charterland Company yesterday the chairman remarked that it was difficult to realise how the company could be made liable to pay tax on a profit which it had not yet made, and might never receive. It will be instructive to learn the answer of the Inland Revenue authorities, for, on the facts as stated by the chairman, the claim seems a curious one.

A prosecution arising out of wholesale poisoning of the River Derwent at Darley Dale was heard on Wednesday, the 21st December, says *The Times*, at Matlock Police Court. The defendants were the Mill Close Lead Mines. Evidence was given that a fire at the mines stopped the pumps and flooded the workings, which are still dormant. After pumping was resumed the river was found to have been poisoned with lead, zinc, and copper, a solution which experts said would kill the fish in five minutes. A river keeper stated the river had been cleared of fish, and he picked out 800 dead trout and grayling. The defence was that the mine effluent included several hundred other mines. The magistrates, convicted, but sympathised with the defendants because of the fire, and only fined them £1 and costs.

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

CREDITORS MUST SEND IN THEIR CLAIMS TO THE LIQUIDATOR AS NAMED ON OR BEFORE THE DATE MENTIONED.

London Gazette, FRIDAY, December 16.

PHŒNIX MANUFACTURING CO. LTD. Dec. 31. John S. Cotman, 10, Coleman-st., E.C.

VAALTON SYNDICATE LTD. Dec. 31. Ernest Froude, 6 and 7, Great Tower-st., E.C.3.

WARREN ROW WHITING WORKS LTD. Jan. 20. George B. Knight, Queen Street-chmbrs., Maidenhead.

London Gazette.—TUESDAY, December 20.

J. R. HOLMES & CO. (BRADFORD) LTD. Jan. 28. Alfred Greaves, 5, Bank-st., Bradford.

W. HOLT (BURNLEY) LTD. Jan. 6. John W. Kneeshaw, 7, Hargreaves-st., Burnley.

LLANDEBIE COLLIERY COMPANY LTD. Jan. 2. William E. Scourfield, 2, Gloucester-pl., Swansea.

JOHN STYCH & CO. LTD. Jan. 4. W. E. Withnall, 19, Temple-st., Birmingham.

FAIMES LTD. Jan 25. Walter Bonavia, 235, High Holborn.

TIMMINS DRUG STORES LTD. Jan. 3. William H. E. Sparkes, 60, Scarborough-st., West Hartlepool.

J. TYLOR & SONS LTD. Jan. 7. Francis D'Arcy Cooper, 14, George-st., Mansion House.

Resolutions for Winding-up Voluntarily.

London Gazette.—FRIDAY, December 16.

Wood Wool & Fibre Co. Ltd.
The National Rotary Pump Co. Ltd.
Uranium Ltd.
The Sunderland Borough Club Ltd.
Comber Rice Mills Ltd.
The Llandebie Colliery Co. Ltd.
James Critchley & Sons Ltd.
Saltaire Garage Ltd.
Agency Company of Uruguay Ltd.
Compton Maton & Co. Ltd.
The Mostyn Steamship Co. Ltd.
Rotary Ignition Ltd.
Welsh Homespuns Ltd.
Ladmor Garage Ltd.
S. Weiss & Co. Ltd.
Bristol Channel Institute of Shipbrokers.
Pinous Tobacco Co. Ltd.
H. W. Jones Ltd.
Cordey's Stores Ltd.
Rose & Innes Ltd.
University Press of Liverpool.
Vaalton Syndicate Ltd.
Messer & Blythe Ltd.
Austen Hurgon Ltd.

London Gazette.—TUESDAY, December 20.

The East Norfolk Stock Mart Ltd.
The Fox Fittings Co. Ltd.
Dunstanburgh Castle Hotel Co. Ltd.
W. Holt (Burnley) Ltd.
P. W. Herbert & Co. Ltd.
Pickup & Holden Ltd.
The Peterborough Laundry Ltd.
Blankleys Chemists Ltd.
Dixon & Co. Ltd.
London & Kano Trading Co. Ltd.
Thomas Cresswell & Co. Ltd.
Park Royal Estates Ltd.
Thames Building Supply & Engineering Co. Ltd.
United Ores Ltd.
The Camden Metal Works Ltd.
Grand Garages Ltd.
The Long Eaton Recreation Grounds Co. Ltd.
S. Fleming & Co. Ltd.
The Enterprise Shipping Co. Ltd.
The Chester New Music Hall Co. Ltd.
The Queenborough Contracting Co. Ltd.
Omnitractor Syndicate Ltd.
Brittain & Clifford Ltd.
Femina Publishing Co. Ltd.
Automobile Electrical Repairers Ltd.
Faimes Ltd.

Bankruptcy Notices.

RECEIVING ORDERS.

London Gazette.—FRIDAY, December 16.

ARCHER, FREDERICK J., Southwark Park-rd. High Court. Pet. Nov. 26. Ord. Dec. 13.

BAKER, STANLEY C., Bradford, Manchester. Manchester. Pet. Dec. 14. Ord. Dec. 14.

BALLANTYNE, WALTER, Newcastle-upon-Tyne. Newcastle-upon-Tyne. Pet. Dec. 12. Ord Dec. 12.

BEVAN, WILLIAM J., Abercynon. Pontypridd. Pet. Dec. 13. Ord. Dec. 13.

BEZEI, ARTHUR L., Sidcup. Croydon. Pet. Oct 18. Ord. Dec. 13.

BROMAGE, JOSEPH, Manchester. Manchester. Pet. Dec. 14. Ord. Dec. 14.

BUTT, THOMAS F., Manthorpe. Nottingham. Pet. Dec. 31. Ord. Dec. 13.

CASH, FRED, Sale. Manchester. Pet. Dec. 12. Ord. Dec. 12.

CHIDLEY, ANDREW, North Petherton. Bridgwater. Pet. Dec. 13. Ord. Dec. 13.

CHILDS, GEOFFREY W. S., Stepney. High Court. Pet. Nov. 4. Ord. Dec. 13.

CROW, CHARLES J., Coventry. Coventry. Pet. Dec. 14. Ord. Dec. 14.

DAWSON, LILIAN M., Forest Hill, S.E. Greenwich. Pet. Dec. 12. Ord. Dec. 12.

EAMES, F. J., Shirley, Southampton. Southampton. Pet. Nov. 26. Ord. Dec. 12.

EVETT, HARRY, Birmingham. Birmingham. Pet. Nov. 24. Ord. Dec. 13.

EXLEY, WRIGHT, Horbury, nr. Wakefield. Wakefield. Pet. Dec. 13. Ord. Dec. 13.

FOLEY, MABEL M. S., Motcombe-st. High Court. Pet. Oct. 20. Ord. Dec. 12.

FOX, CHARLES P., Guilford-st. High Court. Pet. Nov. 18. Ord. Dec. 13.

GEORGE, SAMUEL, Kensington. High Court. Pet. Nov. 22. Ord. Dec. 14.

GLAZIER, CECIL F. W., Eastbourne. Eastbourne. Pet. Dec. 14. Ord. Dec. 14.

GORDON, BERESFORD, Hampstead. High Court. Pet. Nov. 22. Ord. Dec. 14.

GOULD, GEORGE W., Sittingbourne. Rochester. Pet. Dec. 13. Ord. Dec. 13.

HALDENBY, JOHN, Loversall, nr. Doncaster. Sheffield. Pet. Nov. 25. Ord. Dec. 13.

HANES, JOHN, Gringley-on-the-Hill. Lincoln. Pet. Dec. 13. Ord. Dec. 13.

HARTLAND, ARTHUR P., Waterloo. Liverpool. Pet. Nov. 23. Ord. Dec. 13.

HARRIS, GEORGE E., Norwich. Norwich. Pet. Dec. 14. Ord. Dec. 14.

HARRIES, ALBERT R., Cardiff. Cardiff. Pet. Dec. 8. Ord. Dec. 8.

HILL, ERNEST H., Kingsbridge, Devon. Plymouth. Pet. Dec. 13. Ord. Dec. 13.

HILL, JOHN, Redbourn, Herts. Barnet. Pet. Nov. 28. Ord. Dec. 13.

HOPKINS, J. HOWARD, Maida Vale. High Court. Pet. Oct. 13. Ord. Nov. 30.

HORN, TOM, Castleford, Yorks. Wakefield. Pet. Dec. 14. Ord. Dec. 14.

HORTON, PETER, Maidstone. Maidstone. Pet. Nov. 28. Ord. Dec. 9.

JACKSON, HAROLD B., Peterborough. Peterborough. Pet. Dec. 14. Ord. Dec. 14.

JACKSON, SAMUEL, Hanley. Hanley. Pet. Dec. 13. Ord. Dec. 13.

JAMES, ISAAC, Chantry, nr. Frome. Frome. Pet. Dec. 14. Ord. Dec. 14.

JONES, CHARLES, Shrewsbury. Shrewsbury. Pet. Dec. 12. Ord. Dec. 12.

JONES, GOMER M., Glanamman. Carmarthen. Pet. Dec. 13. Ord. Dec. 13.

MACKIZ, G. L., Strand. High Court. Pet. Nov. 28. Ord. Dec. 14.

MALLINDER, GEORGE, Arkwright Town, Derby. Chesterfield. Pet. Dec. 14. Ord. Dec. 14.

MARSDEN, WILLIAM, Honley, nr. Huddersfield. Huddersfield. Pet. Sept. 7. Ord. Sept. 19.

MARSH, JOHN, Sheffield. Sheffield. Pet. Dec. 14. Ord. Dec. 14.

MATTHEWS, ARTHUR, Shirehampton, Bristol. Bristol. Pet. Dec. 14. Ord. Dec. 14.

MENDELSON, F., & Co., Ely-pl., E.C., High Court. Pet. Nov. 23. Ord. Dec. 14.

NASH, ALFRED W., Poole. Poole. Pet. Dec. 13. Ord. Dec. 13.

NICHOLLS, JAMES A., Teignmouth. Exeter. Pet. Dec. 10. Ord. Dec. 10.

NUTTER, EDMUND, Colne. Burnley. Pet. Dec. 13. Ord. Dec. 13.

PACKER, JOHN W., St. Philips, Bristol. Bristol. Pet. Dec. 12. Ord. Dec. 12.

PARKES, ALFRED C., Cradley Heath. Dudley. Pet. Dec. 12. Ord. Dec. 12.

RICHARDSON, ERNEST E., Kettering. Northampton. Pet. Nov. 19. Ord. Dec. 12.

ROBERTS, WALTER H. S., Sheffield. Sheffield. Pet. Dec. 12. Ord. Dec. 12.

RUF, THEODORE A., Paris, France. High Court. Pet. Nov. 8. Ord. Dec. 12.

SAUNDERS, GERALD C., Purleigh, Essex. Windsor. Pet. Dec. 14. Ord. Dec. 14.

SMITH, REGINALD H., Shirehampton, Bristol. Bristol. Pet. Dec. 13. Ord. Dec. 13.

WARNER, DONALD, Weybridge. Kingston (Surrey). Pet. Dec. 12. Ord. Dec. 12.

WEARING, WILLIAM B., Barrow-in-Furness. Barrow-in-Furness. Pet. Dec. 14. Ord. Dec. 14.

WHITE, WILLIAM, Plumpton. Brighton. Pet. Dec. 12. Ord. Dec. 12.

WOODHOUSE, SIDNEY H., Bridlington. Scarborough. Pet. Dec. 12. Ord. Dec. 12.

YARDLEY, ARTHUR, Liversedge, Yorks. Dewsbury. Pet. Dec. 14. Ord. Dec. 14.

Amended Notice substituted for that published in the *London Gazette* of Dec. 12, 1921.

CORNFORTH, CHAPLIN AND CO., Lime-st. High Court. Pet Nov. 18. Ord. Nov. 28.

London Gazette.—TUESDAY, December 20.

AGGETT, DAVID T., Cardiff. Cardiff. Pet. Dec. 15. Ord. Dec. 15.

BAKER, HENRY G., Pembroke Dock. Haverfordwest. Pet. Dec. 17. Ord. Dec. 17.

BARTLETT, ARCHIBALD W., Fenchurch-st. High Court. Pet. Oct. 17. Ord. Dec. 14.

BIRD, JOHN, Clerkenwell. High Court. Pet. Dec. 15. Ord. Dec. 15.

BURT, OLIVER C. R., Billinghurst. Brighton. Pet. Dec. 15. Ord. Dec. 15.

COHEN, MAX, and BLACK, HARRY, Manchester. Manchester. Pet. Dec. 1. Ord. Dec. 1.

CORNS, JAMES A., Wigan. Wigan. Pet. Dec. 17. Ord. Dec. 17.

COX, JOHN, Swindon. Swindon. Pet. Dec. 15. Ord. Dec. 15.

CROMPTON, HARRY, Rochdale. Rochdale. Pet. Dec. 3. Ord. Dec. 15.

DAVEY, EDWARD J., Slough. Windsor. Pet. Sept. 5. Ord. Dec. 15.

DEAN, AUGUSTUS J., Cleethorpes. Great Grimsby. Pet. Dec. 15. Ord. Dec. 15.

FRANCIS, —, Cardiff. Cardiff. Pet. Oct. 10. Ord. Dec. 13.

GANSNARS, HARRY, Wardour-st. High Court. Pet. Nov. 16. Ord. Dec. 14.

GREEN, MICHAEL, Walker's-ct., Shaftesbury-av. High Court. Pet. Dec. 16. Ord. Dec. 16.

GREEN, RICHARD A. E., Ipswich. Ipswich. Pet. Dec. 13. Ord. Dec. 13.

GRINNELL, EARLE E., Bradford. Bradford. Pet. Dec. 16. Ord. Dec. 16.

INGRAM, WILLIAM, Tredington. Banbury. Pet. Dec. 15. Ord. Dec. 15.

JOHN, ARTHUR, Southport. Liverpool. Pet. Nov. 30. Ord. Dec. 15.

LITTLE, EDWARD W., Barry. Cardiff. Pet. Dec. 15. Ord. Dec. 15.

MALHAM, GEORGE W., Fortis Green. Barnett. Pet. Dec. 16. Ord. Dec. 16.

MATTHEWS, WILLIAM, Tottenham. Edmonton. Pet. Nov. 15. Ord. Dec. 15.

MORGAN, EDWIN, Barrow-in-Furness. Barrow-in-Furness. Pet. Dec. 16. Ord. Dec. 16.

NEWTON, JOSEPH S., Birmingham. Birmingham. Pet. Dec. 15. Ord. Dec. 15.

PARKIN, MATTHEW W., Loftus, Yorks. Stockton-on-Tees. Pet. Dec. 16. Ord. Dec. 16.

PARRY, JOSEPH, Ammanford. Carmarthen. Pet. Dec. 17. Ord. Dec. 17.

PEARCEY, ENOCH, Dudley. Dudley. Pet. Dec. 15. Ord. Dec. 15.

RANKINE, HENRY F., Ainsworth. Bolton. Pet. Dec. 16. Ord. Dec. 16.

ROBERTSON, ALEXANDER, Puddlestone. Leominster. Pet. Dec. 15. Ord. Dec. 15.

ROBSON, WILLIAM, Clement's Inn. High Court. Pet. Sept. 2. Ord. Nov. 24.

SALISBURY, ANNIE G., Wigan. Wigan. Pet. Dec. 16. Ord. Dec. 16.

SALMON, A. H., Teddington. High Court. Pet. Nov. 9. Ord. Dec. 15.

SAUNDERS, JOHN H., Walsall. Walsall. Pet. Dec. 15. Ord. Dec. 15.

SLADDIN, ROBERT, Halifax. Halifax. Pet. Dec. 15. Ord. Dec. 15.

SMITH, D. & SONS, Rupert-st., Leman-st. High Court. Pet. Nov. 25. Ord. Dec. 15.

STAMPS, ARTHUR L., Wishaw. Birmingham. Pet. Nov. 16. Ord. Dec. 16.

STOCKWELL, EVA C., Chatham. Rochester. Pet. Dec. 14. Ord. Dec. 14.

TAPER (or TOPER), BERNARD, Bloomsbury. High Court. Pet. Nov. 19. Ord. Dec. 15.

WALMESLEY, THOMAS, Brynteg, near Wrexham. Wrexham. Pet. Dec. 12. Ord. Dec. 12.

WARD, Major CLIFFORD, P., D.S.O., Westbourne-grove, High Court. Pet. Sept. 30. Ord. Dec. 15.

WILLIAMS, PERCY J., Chippenham. Bath. Pet. Dec. 15. Ord. Dec. 15.

ZEALLEY, G. A., Chardstock, Devonshire. Exeter. Pet. Nov. 30. Ord. Dec. 16.

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